

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

FILED-CLERK  
U.S. DISTRICT COURT

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TEXAS-EASTERN

JOHNNIE R. PROPES

§

BY \_\_\_\_\_

VS.

§

CIVIL ACTION NO. 4:03cv87

PLANO POLICE DEPARTMENT, ET AL. §

MEMORANDUM OPINION AND ORDER

Plaintiff Johnnie R. Propes, an inmate confined at the Boyd Unit, proceeding *pro se*, brought this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff's complaint was dismissed as frivolous and for failing to state a claim upon which relief may be granted. Plaintiff has filed a notice of appeal and a motion to proceed *in forma pauperis* on appeal.

Analysis

Title 28 U.S.C. § 1915(g) prohibits prisoners from repeatedly filing frivolous or malicious complaints. Section 1915(g) provides as follows:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action [*in forma pauperis*] . . . if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

Prior to the date on which he filed this appeal, plaintiff has on three occasions, while incarcerated, brought actions that were dismissed as frivolous, malicious, or for failing to state a claim

upon which relief may be granted.<sup>1</sup> As a result, Section 1915(g) is applicable.

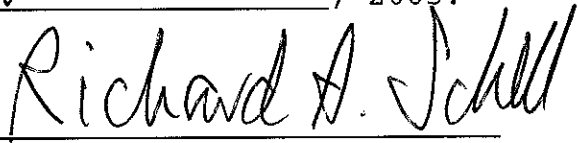
As set forth above, plaintiff has had four prior lawsuits dismissed as frivolous or for failure to state a claim. Plaintiff's allegations fail to demonstrate that he is in "imminent danger of serious physical injury." Section 1915(g) therefore bars plaintiff from proceeding on appeal on an *in forma pauperis* basis.

Conclusion

For the reasons set forth above, plaintiff's motion to proceed *in forma pauperis* on appeal should be denied. It is therefore

**ORDERED** that plaintiff's motion to proceed *in forma pauperis* on appeal is **DENIED**.

SIGNED this 11<sup>th</sup> day of August, 2005.

  
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RICHARD A. SCHELL  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> *Propes v. Dretke*, Civil Action No. 4:04cv14 (W.D. Tex. Sept. 30, 2004), No. 04-50822 (5th Cir. Apr. 20, 2005) (appeal dismissed as frivolous - plaintiff barred from proceeding IFP pursuant to 28 U.S.C. § 1915(g)); *Propes v. Collin County Sheriff's Office*, Civil Action No. 4:03cv135 (E.D. Tex. Mar. 10, 2004), No. 04-40430 (5th Cir. Oct. 20, 2004) (two strikes - appeal dismissed as frivolous and counted district court dismissal as malicious).